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UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

GABRIEL GONZALES,

Defendant.

No. 2:23-cr-00423-DSF

ORDER GRANTING GOVERNMENT'S
MOTION TO HOLD IN ABEYANCE
DEFENDANT'S MOTION TO DISMISS
THE INDICTMENT

This Court has read and considered the Government's Motion to Hold in Abeyance Defendant's Motion to Dismiss the Indictment, filed on May 24, 2024. The Government's Motion is GRANTED. The Court hereby finds as follows:

(1) Defendant's motion to dismiss will be held in abeyance until a decision on the government's petition for rehearing en banc in United States v. Duarte, 2024 WL 2068016 (9th Cir. 2024), or for 60 days, whichever is earlier.

1 (2) The Court further finds that this period of time is
2 excludable in computing the time within which the trial must
3 commence, pursuant to 18 U.S.C. §§ 3161(h)(7)(A), (h)(7)(B)(i), and
4 (B)(ii).

5 (3) The Government's Motion also provides good cause for a
6 finding of excludable time pursuant to the Speedy Trial Act, 18
7 U.S.C. § 3161(h)(1)(D).

8 (4) Once the petition for rehearing en banc in Duarte is
9 resolved, the Court will set a hearing at which time it will consider
10 defendant's motion to dismiss. Until then, defendant's motion to
11 dismiss is not "under advisement" within the meaning of 18 U.S.C.
12 § 3161(h)(1)(H) because the disposition of the government's en banc
13 petition by the Ninth Circuit is necessary to the Court's disposition
14 of the motion to dismiss.

15 (5) Nothing in this stipulation shall preclude a finding that
16 other provisions of the Speedy Trial Act dictate that additional time
17 periods be excluded from the period within which trial must commence.
18 Moreover, the same provisions and/or other provisions of the Speedy
19 Trial Act may in the future authorize the exclusion of additional
20 time periods from the period within which trial must commence.

21 IT IS SO ORDERED.

22
23 June 3, 2024

24 _____
DATE



HONORABLE DALE S. FISCHER
UNITED STATES DISTRICT JUDGE

25 Presented by:

26 _____
/s/
27 JOSEPH S. GUZMAN
Assistant United States Attorney
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